

Joseph R. Saveri (State Bar No. 130064)  
Cadio Zirpoli (State Bar No. 179108)  
Christopher K.L. Young (State Bar No. 318371)  
Holden Benon (State Bar No. 325847)  
Aaron Cera (State Bar No. 351163)  
Margaux Poueymirou (State Bar No. 356000)  
**JOSEPH SAVERI LAW FIRM, LLP**  
601 California Street, Suite 1505  
San Francisco, California 94108  
Telephone: (415) 500-6800  
Facsimile: (415) 395-9940  
Email: jsaveri@saverilawfirm.com  
czirpoli@saverilawfirm.com  
cyoung@saverilawfirm.com  
hbenon@saverilawfirm.com  
acera@saverilawfirm.com  
mpoueymirou@saverilawfirm.com

Bryan L. Clobes (*pro hac vice*)  
Alexander J. Sweatman (*pro hac vice anticipated*)  
**CAFFERTY CLOBES MERIWETHER  
& SPRENGEL LLP**  
135 South LaSalle Street, Suite 3210  
Chicago, IL 60603  
Telephone: (215) 864-2800  
Email: bclobes@caffertyclobes.com  
asweatman@caffertyclobes.com

David A. Straite (*pro hac vice*)  
**DICELLO LEVITT LLP**  
475 Lexington Avenue, Suite 1001  
New York, NY 10017  
Telephone: (646) 933-1000  
Email: dstraite@dicellolevitt.com

Matthew Butterick (State Bar No. 250953)  
1920 Hillhurst Avenue, #406  
Los Angeles, CA 90027  
Telephone: (323) 968-2632  
Facsimile: (415) 395-9940  
Email: mb@buttericklaw.com

*Counsel for Individual and Representative  
Plaintiffs and the Proposed Class*

[Additional Counsel Listed on Signature Page]

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

Richard Kadrey, Sarah Silverman, Christopher  
Golden, Ta-Nehisi Coates, Junot Díaz, Andrew  
Sean Greer, David Henry Hwang, Matthew Klam,  
Laura Lippman, Rachel Louise Snyder, Jacqueline  
Woodson, and Lysa TerKeurst,

*Individual and Representative Plaintiffs,*

v.

Meta Platforms, Inc., a Delaware corporation;

*Defendant.*

Case No. 3:23-cv-03417-VC

**PLAINTIFFS' ADMINISTRATIVE  
MOTION TO FILE UNDER SEAL  
PORTIONS OF THE SECOND  
CONSOLIDATED AMENDED  
COMPLAINT**

## I. INTRODUCTION

Pursuant to Civil Local Rules 7-11 and 79-5, Plaintiffs hereby move the Court to consider whether portions of Plaintiffs’ Second Consolidated Amended Complaint (“SCAC”) should be filed under seal. Meta contends the portions sought to be filed under seal, which were previously filed redacted under seal with Plaintiffs’ First Consolidated Amended Complaint (*see* ECF No. 69; the “FCAC”), contain information protected by attorney-client privilege.

The Parties stipulated that Plaintiffs may file an amended complaint adding Lysa TerKeurst as a Plaintiff within five days of the resolution of the privilege dispute, and the Court approved the stipulation. ECF No. 107, ¶ 2. On August 22, 2024 Magistrate Judge Hixson issued a Discovery Order addressing the privilege dispute. ECF No. 114. Plaintiffs plan to file objections to the Discovery Order, and therefore believe the privilege dispute is still pending. Fed. R. Civ. P. 72(a). Nonetheless, to avoid any potential prejudice to Plaintiff TerKeurst, Plaintiffs are filing this SCAC adding Plaintiff TerKeurst within five days of the entry of the Discovery Order, with the disputed allegations redacted under seal. Accompanying this Motion is the Declaration of Christopher K.L. Young in Support of Plaintiffs’ Administrative Motion to File Under Seal a proposed order.

## II. ARGUMENT

In the Ninth Circuit, when a party seeks to seal portions of a complaint, the compelling reasons standard is typically used. *See, e.g., In re NVIDIA Corp. Derivative Litig.*, C 06-06110 SBA, 2008 WL 1859067, at \*3 (N.D. Cal. Apr. 23, 2008); *Ojmar US, LLC v. Sec. People, Inc.*, No. 16-CV-04948-HSG, 2016 WL 6091543, at \*2 (N.D. Cal. Oct. 19, 2016); *see also In re ZF-TRW Airbag Control Units Prod. Liab. Litig.*, No. ML1902905JAKFFMX, 2020 WL 13688234, at \*3 (C.D. Cal. Sept. 7, 2020) (“Although the Ninth Circuit appears not to have explicitly stated what standard applies to the sealing of a complaint, many courts in this district and elsewhere have found that the compelling reasons standard applies.”). This is because a complaint is “the root, the foundation, the basis by which a suit

arises and must be disposed of.” *NVIDIA Corp. Derivative Litig.*, 2008 WL 1859067, at \*3.

Compelling reasons “outweigh the public’s interest in disclosure and justify sealing court records . . . when such ‘court files might have become a vehicle for improper purposes,’ such as the use of records to gratify private spite, promote public scandal, circulate libelous statements, or release trade secrets . . . .” *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006) (citing *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978)). The party seeking to seal bears the burden of showing compelling reasons apply. *See id.* at 1178.

Here, Meta has asserted privilege over certain portions of the SCAC which were originally included in the FCAC (ECF No. 69), claiming certain allegations contain information that is protected by the attorney-client privilege. Plaintiffs disagree that the information is privileged, and even if it were, any privilege was waived. On August 22, 2024, Magistrate Judge Hixson issued a Discovery Order holding the disputed materials are privileged. ECF No. 115. The Parties previously stipulated that Plaintiffs may file an amended complaint adding Lysa TerKeurst as a Plaintiff within five days of the resolution of the privilege dispute, and the Court approved the stipulation. ECF No. 107, ¶ 2. Although Plaintiffs do not view the Discovery Order as the final resolution of the dispute, Fed. R. Civ. P. 72(a), Plaintiffs file this SCAC adding allegations specific to Plaintiff Lysa TerKeurst, to avoid any potential prejudice to Plaintiff TerKeurst. In so doing, Plaintiffs seek to maintain the disputed portions under seal in redacted form consistent with the Parties’ agreement until Plaintiffs’ Rule 72 objections to the Order are properly resolved by the Court. Plaintiffs therefore submit this motion in accordance with Local Rule 79-5.

### III. CONCLUSION

Plaintiffs therefore request that the following paragraphs of the SCAC be filed under seal.

| <b>SCAC Paragraph</b> | <b>Description of Information</b>  |
|-----------------------|--|
| 54                    | Information Meta contends is protected by the attorney-client privilege. |
| 56                    | Information Meta contends is protected by the attorney-client privilege. |
| 59                    | Information Meta contends is protected by the attorney-client privilege. |
| 60                    | Information Meta contends is protected by the attorney-client privilege. |
| 61                    | Information Meta contends is protected by the attorney-client privilege. |
| 62                    | Information Meta contends is protected by the attorney-client privilege. |

Dated: August 29, 2024

By: /s/ Christopher K.L. Young  
Christopher K.L. Young

Joseph R. Saveri (State Bar No. 130064)  
Cadio Zirpoli (State Bar No. 179108)  
Christopher K.L. Young (State Bar No. 318371)  
Holden Benon (State Bar No. 325847)  
Aaron Cera (State Bar No. 351163)  
Margaux Poueymirou (State Bar No. 356000)  
**JOSEPH SAVERI LAW FIRM, LLP**  
601 California Street, Suite 1505  
San Francisco, California 94108  
Telephone: (415) 500-6800  
Facsimile: (415) 395-9940  
Email: jsaveri@saverilawfirm.com  
czirpoli@saverilawfirm.com  
cyoung@saverilawfirm.com  
hbenon@saverilawfirm.com  
acera@saverilawfirm.com  
mpoueymirou@saverilawfirm.com

Matthew Butterick (State Bar No. 250953)  
1920 Hillhurst Avenue, #406  
Los Angeles, CA 90027  
Telephone: (323) 968-2632  
Facsimile: (415) 395-9940  
Email: mb@buttericklaw.com

Bryan L. Clobes (*pro hac vice*)  
**CAFFERTY CLOBES MERIWETHER  
& SPRENGEL LLP**  
135 South LaSalle Street, Suite 3210  
Chicago, IL 60603  
Telephone: (215) 864-2800  
Email: bclobes@caffertyclobes.com  
asweatman@caffertyclobes.com

Daniel J. Muller (State Bar No. 193396)  
**VENTURA HERSEY & MULLER, LLP**  
1506 Hamilton Avenue  
San Jose, California 95125  
Telephone: (408) 512-3022  
Facsimile: (408) 512-3023  
Email: dmuller@venturahersey.com

Seth Haines\*  
Timothy Hutchinson\*  
Lisa Geary\*  
**RMP, LLP**  
5519 Hackett Street, Suite 300  
Springdale, Arkansas 72762  
Telephone: (479) 443-2705  
Email: shaines@rmp.law

David A. Straite (*pro hac vice*)  
**DICELLO LEVITT LLP**  
475 Lexington Avenue, Suite 1001  
New York, NY 10017  
Telephone: (646) 933-1000  
Email: dstraite@dicellolevitt.com  
thutchinson@rmp.law  
lgeary@rmp.law

Scott Poynter\*  
**POYNTER LAW GROUP**  
407 President Clinton Avenue, Suite 201  
Little Rock, Arkansas 72201  
Telephone: (501) 812-3943  
Email: scott@poynterlawgroup.com

Brian O'Mara  
**DICELLO LEVITT LLP**  
4747 Executive Drive, Second Floor  
San Diego, California 92121  
Telephone: (619) 923-3939  
Email: bomara@dicellolevitt.com

David A. Straite (*pro hac vice*)  
**DICELLO LEVITT LLP**  
475 Lexington Avenue, Suite 1001  
New York, NY 10017  
Telephone: (646) 933-1000  
Email: dstraite@dicellolevitt.com

Adam J. Levitt  
Amy E. Keller\*  
Nada Djordjevic\*  
James A. Ulwick\*

**DICELLO LEVITT LLP**

Ten North Dearborn Street, Sixth Floor  
Chicago, Illinois 60602

Telephone: (312) 214-7900

Email: alevitt@dicellolevitt.com  
akeller@dicellolevitt.com  
ndjordjevic@dicellolevitt.com  
julwick@dicellolevitt.com

*Counsel for Individual and Representative  
Plaintiffs and the Proposed Class*